

IN THE SENATE OF THE UNITED STATES.

APRIL 24, 1858.—Ordered to be printed.

Mr. SIMMONS made the following

REPORT.

[To accompany Bill S. 288.]

*The Committee on Claims, to whom was referred the petition of Miles Divine, report:*

The following state of facts is presented by the evidence in the case:

The petitioner was in the employ of the government as a laborer in the repair of Fort Scammel, in Portland harbor, and while engaged in making an excavation a bank of earth suddenly fell and buried him to the depth of several feet. When dug out, he was found to be seriously injured. Dr. Wood states that one of his thigh bones was so badly broken as to result in a deformity which incapacitates him for labor to the full extent stated in his petition—that is, to make him a cripple for life, and unable to labor, &c.

Governor Stevens, the present delegate from Washington Territory, states that he had, at that time, the charge of the repairs in Portland harbor, and recollects all the facts of this injury as stated in the evidence. He saw Divine several times afterwards; that his escape from death was miraculous, and that he is a cripple for life. Governor Stevens adds that he was a very industrious, worthy man.

The petitioner prays to be allowed a pension, or such a gratuity as would relieve him and his family from want. The case was considered by the Committee on Pensions of the last Congress, and reported adversely to the allowance of a pension, on the ground that "it is an absolute condition of the pension system of the country that the recipients of its benefits shall have been regularly received into the military or naval service."

While the committee concur fully in this wise policy of the government in regard to the granting of pensions, they think that cases may arise in which, in the exercise of a wise and humane discretion, Congress may properly interpose to relieve the necessities of persons in civil life who become disabled from providing for their own support by accidents incurred in the faithful service of the country. This case is nearly identical with that of Peter Grover, for whose relief an act was passed

at the last session of Congress. The principle laid down in that case is the following:

Where a skilful and industrious mechanic or laborer is employed by the government in a *necessary but dangerous service*, and, without any fault or negligence, receives, in the performance of his duty, an injury which permanently disables him from providing for those dependent upon his skill and labor for support, it would alike become the government or an individual employer to manifest their sympathy "in the only way calculated to carry conviction of its sincerity," by extending some measure of material aid and bounty. Such a case, it is believed, is presented by the petitioner.

As all cases of this character must necessarily come before Congress, and be passed or rejected upon their own intrinsic and individual merits, as appealing directly to the bounty and making no pretension to the legal obligations of the government, it is not regarded as belonging to that class of cases from which injurious precedents are likely to be drawn. These views are sustained by the action of Congress in 1847, in the case of James Jones, who received a severe injury while in the employment of the government as a rigger, although not enrolled or enlisted, it being regarded as one of those meritorious cases in which the government might and ought to interpose its bounty to save from poverty and want one who was made helpless while in their service.

Senate reports, 32d Congress, 1st session, No. 81 and No. 208, and 34th Congress, 1st session, No. 37, and report House of Representatives, 31st Congress, 1st session, No. 289, recognize the same principles.

In conformity with these views, the committee report the accompanying bill, and recommend its passage.